

# The Interim



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## Newsletter

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### **CFHHS to Focus on Children's Mental Health, Alzheimer's Disease at Billings Meeting**

The Children, Families, Health, and Human Services Interim Committee will meet in Billings on Nov. 19-20 to examine children's mental health, Alzheimer's disease, guardianship, and other topics.

#### **Children's Mental Health**

The Billings meeting fulfills a requirement of House Bill 422 (2015) about children's mental health outcomes. The bill requires that the committee hold a meeting outside of Helena to obtain comments from children's mental health providers and other interested parties.

Under HB 422, the committee is to develop a bill for a pilot project that is designed to:

- improve outcomes by stabilizing youth and their families;
- improve cooperative efforts between mental health providers and the Department of Public Health and Human Services; and
- link outcomes to performance-based payment options for providers.

Speakers on Nov. 19 will discuss evidence-based practices for mental health treatment and the measurement of treatment outcomes. Mental health providers also have been invited to provide their ideas for the pilot project legislation.

#### **Alzheimer's Disease and Guardianship Issues**

On Nov. 20, the committee will take up the Senate Joint Resolution 22 (2015) study of Alzheimer's disease and guardianship issues.

Committee members will learn about the causes and stages of Alzheimer's disease and the different levels of care needed for Alzheimer's and dementia patients. They'll also hear from family members who serve as caregivers and from a Montana citizen's working group on Alzheimer's and dementia.

Other speakers will discuss guardianship programs that have been set up at the local level for people who are unable to make decisions about their medical care or personal affairs.

## Also on Tap

Also during the two-day meeting, the committee will:

- hear an update on the use of new appropriations for mental health services;
- review the plan for measuring how well DPHHS is meeting objectives set out in Senate Bill 418 (2015) for the use of those mental health funds;
- hear a presentation from Dr. Eric Arzubi of the Billings Clinic on a psychiatric training track proposal; and
- hear updates from legislative staff and DPHHS on topics ranging from medical marijuana to a review of advisory councils and reports required by law.

## Next Meeting

The committee will meet on Nov. 19-20 in Billings in Room 163 of McDonald Hall at Montana State University-Billings, 100 Poly Dr., at a time to be determined. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Sue O'Connell, committee staff.

Committee Website: [www.leg.mt.gov/cfhhs](http://www.leg.mt.gov/cfhhs)

Committee Staff: [soconnell@mt.gov](mailto:soconnell@mt.gov) or 406-444-3597

## Up Next for Commission on Sentencing

The Commission on Sentencing meets again in mid-November to dive deeper into its yearlong study of Montana's criminal justice system. Topics for the meeting include:

- the development and use of risk and needs assessments nationwide and in Montana;
- what works in behavioral health and substance abuse programming for populations involved in the criminal justice system, as well as capacities and needs in Montana programs;
- an overview of the development and operation of treatment courts in the state;
- background on the use of swift and certain sanctions for probation and parole violations, including recent efforts by the Department of Corrections to implement a program in Montana;
- a review of the parole process in Montana as well as recent legislation affecting the Board of Pardons and Parole;
- a discussion of county law enforcement perspectives and challenges, including the relationship of county officials to the state; and
- experiences from policymakers in two states that have used the justice reinvestment process to examine those states' criminal justice systems.

## Next Meeting

The commission will meet on Nov. 17-18 at the Capitol in Helena. An agenda will be available in early November. For more information on the commission's activities and upcoming meeting, visit the commission's website or contact Rachel Weiss, commission staff.

Commission Website: [www.leg.mt.gov/cos](http://www.leg.mt.gov/cos)

Commission Staff: [rweiss@mt.gov](mailto:rweiss@mt.gov) or 406-444-5367

## Focus by Economic Affairs Committee on Broadband and Economic Development

*Editor's Note: This article concerning the EAIC's Aug. 31-Sept. 1 meeting was inadvertently left out of the October issue of The Interim.*

At its Aug. 31-Sept. 1 meeting, the Economic Affairs Interim Committee adopted its 2015-2016 work plan and reviewed broadband resources and economic development concerns. The broadband and economic development reviews included information on expenditures as well as estimated returns from those expenditures, such as job growth.

## Broadband

Committee members asked for more information about mapping Montana's broadband resources and requested additional input from telephone cooperatives that provide broadband services to many rural areas of Montana. Representatives of CenturyTel and the Montana Public Service Commission also discussed a settlement with the PSC that includes CenturyTel's agreement to participate in a new Federal Communications Commission financing plan that incorporates broadband expansion. Rob Ferris of Vision Net reviewed the broadband activities of a subgroup of Gov. Steve Bullock's Main Street Montana Project.

## Economic Development

At its February meeting, the EAIC anticipates further examining whether duplication exists in economic development programs. Research is due at that meeting on grant recipients, job production, and how much money is invested in economic development programs across a range of agencies.

## Livestock Budget

The EAIC examined the Department of Livestock's budget at its September meeting. Committee members will continue to examine the budget in detail at each future EAIC meeting as they assess the reasons for budgetary problems at the department, the prospects for funding revisions, and possible solutions proposed by livestock stakeholders. Chelcie Cremer of the Montana Farm Bureau Federation told committee members that interested parties have been meeting monthly

since May on both short-term and long-range concerns, including brands enforcement.

Two Montana Board of Livestock members described to the committee how the board, which is the head of the Department of Livestock, is trying to better understand department budgeting, particularly in light of the 2015 Legislature's decision to highlight concerns with the department's spending by making most of its appropriations one-time-only. John Scully, vice presiding officer of the livestock board, reviewed some of the department's public health services, including certain public health services that are funded by general fund money rather than by the per capita tax paid by livestock owners. Board member Lila Taylor noted that although employee furloughs may have helped balance the department's budget by the end of the previous fiscal year, the livestock industry suffered from a lack of services during the furloughs.

## Air Ambulances

Another topic the EAIC will visit frequently during the interim is the House Joint Resolution 29 study of how air ambulances operate in Montana and what might be done to lessen the impact of the service bills on customers. At the September meeting, a panel of attorneys and representatives from insurers, air ambulances, and the Department of Justice discussed various legal impediments to state laws regulating air ambulance pricing and other concerns about air ambulance services. The deputy insurance commissioner for North Dakota, Rebecca Ternes, described how her state's legislature responded to concerns about high air ambulance costs by passing legislation that requires hospitals to maintain and, whenever possible, use a priority list of in-network air ambulance providers. An in-network provider cannot bill a patient for the balance of an agreed-upon in-network reimbursement. High costs and balance billing are the major complaints the committee has heard related to air ambulances.

## Other Activities

In other activities, the committee:

- heard from physical therapists and acupuncturists about a Board of Physical Therapy Examiners proposed rule describing dry needling and terms by which a physical therapist may practice that technique in Montana. Some acupuncturists opposed the practice of physical therapists doing dry needling, based on a contention that dry needling is acupuncture. Other acupuncturists said they want more specifics in the rule about minimum training requirements. Physical therapists testified about the importance of the technique in helping address clients' pain and the accepted use of dry needling by physical therapy boards in other states. The committee voted to extend an objection to the rule until the committee's next meeting to give the

physical therapists and acupuncturists time to try to reach a mutual agreement.

- toured the building where licensing boards operate and heard from the administrator of the division of the Department of Labor and Industry that handles board licensing and regulatory oversight, as part of the Senate Bill 390 study of department charges to licensing boards for department support of board operations;
- heard from the state's chief economic development officer, John Rogers, about the activities of the Governor's Office of Economic Development and the scope of economic development in the state;
- heard from Doug Mitchell, the deputy director of the Department of Commerce, about legislation affecting the department, including a workforce training grant program change under Senate Bill 163 (2015) that allows the program to operate more efficiently by using a revolving loan fund. Mitchell also noted that a bill reauthorizing film tax credit incentives failed during the 2015 legislative session, discussed how the department is implementing funding for a recreational facilities grant program, and described international trade missions and a project aimed at preventing disasters rather than paying for postdisaster cleanup.
- heard from representatives of tavern owners, liquor stores, brewers, distillers, and distributors about the status of Montana's alcohol industry and received an overview of alcohol laws presented by Shauna Helfert of the Department of Revenue's Liquor Control Division; and
- adopted a work plan that increased the number of EAIC meeting days by one.

## Next Meeting

The committee will meet on Dec. 1-2 at the Capitol in Helena. Please see the following article for more information.

## State Fund and Licensing Board Fees Join Air Ambulances on EAIC December Agenda

At its Dec. 1-2 meeting, the Economic Affairs Interim Committee will hear about implementation of the Montana State Fund's new regulatory requirements, learn details about how licensing boards set their fees, and examine the costs of operating air ambulances.

## Montana State Fund

Senate Bill 123 (2015) put the Montana State Fund's operations under the oversight of the State Auditor's Office, which regulates other workers' compensation insurers. Prior

to enactment of SB 123, only the governor-appointed State Fund board of directors — and ultimately only the Legislature — could exercise any oversight over what is Montana's largest writer of workers' compensation insurance policies. Now, the State Auditor's Office will review workers' compensation insurance premium increases and the solvency of the State Fund. Another bill, Senate Bill 379 (2015), requires the State Fund to report on its budget to the EAIC. The State Fund will provide its budget report at the EAIC's December meeting and will also report on the projected impact to the general fund of ongoing Old Fund claims, which are claims filed before July 1, 1990.

### Licensing Board Costs

Under the Senate Bill 390 (2015) study of licensing board direct and indirect costs and how the Department of Labor and Industry determines and then distributes those costs, the EAIC will hear at its December meeting budget presentations regarding 33 licensing boards. Also on the agenda is a somewhat related review of changes allowed by House Bill 560 (2015), which enabled the Board of Public Accountants to engage in a four-year pilot program of using a budgeting structure different from other licensing boards. The bill established an enterprise fund that will allow the board to operate with fewer restrictions on its budget.

Another topic on the December agenda relating to licensing boards is an update on a challenged rule related to inspections of fuel-dispensing and related equipment. The Montana Petroleum Marketers and Convenience Store Association has been urging the Department of Labor and Industry to do less frequent inspections and thus help lower costs paid by fuel pump owners. The EAIC will also receive an update on a rule about dry-needling techniques used by physical therapists.

### Air Ambulances

The EAIC will devote a half day to exploring air ambulance costs and will draw on the perspectives of executives from hospitals and air ambulance companies. Similarly, representatives of hospitals and air ambulance companies will address the appropriateness of legislatively increasing the medical requirements for air ambulance services from either an equipment or a staffing approach.

### Agency Monitoring

As requested by the EAIC at its September meeting, the Board of Livestock will provide at the December meeting updates on the department's budget and other management issues. The EAIC will also receive an overview of the Banking and Financial Institutions Division of the Department of Administration.

### Next Meeting

The committee will meet at 10 a.m. on Dec. 1 and at 8 a.m. on Dec. 2 in Room 137 of the Capitol in Helena. For more information about the committee's activities and upcoming meeting, visit the committee's website or contact Pat Murdo, committee staff.

Committee Website: [www.leg.mt.gov/eaic](http://www.leg.mt.gov/eaic)

Committee Staff: [pmurdo@mt.gov](mailto:pmurdo@mt.gov) or 406-444-3594

### EQC Navigates Federal Road and Access Study, FWP Game Damage Rules

At its Sept. 9-10 meeting, the Environmental Quality Council examined road management on federal land and how accessible state and federal land is in Montana, compared aspects of Montana's sage grouse management plan to the Bureau of Land Management plan, and received program evaluation information on wildlife conflict management, coal and opencut mining, and grazing and agricultural leases on Montana's educational trust land.

### Federal Roads and Access

About one-third of Montana roads within the national forest system are closed to motorized use. These roads, totaling 9,784 miles, are minimally maintained and are used intermittently, mostly for forest management.

More than 22,000 miles of Montana roads are open to various types of motorized use.

In very general terms, road planning on federal lands takes into account the costs of maintaining roads, the social and economic aspects of roads, the environmental effects of roads, and what part roads play in the management of federal lands.

The EQC is studying road management on federal lands with a focus on recreational access. The 2015 Legislature passed House Joint Resolution 13, sponsored by Rep. Kerry White (R-Bozeman). It tasks the EQC with assessing road closures on federal lands over the past 35 years, identifying landlocked parcels of public land, and evaluating deer and elk trends in relation to limited access to federal lands.

At its September meeting, the EQC heard some findings of the study and toured U.S. Forest Service and BLM properties northeast of Helena.

Over the past two decades, the U.S. Forest Service has shifted its road policy from planning and building new roads to managing roads according to the capability of the land. The agency has decommissioned about 6,000 miles of roads in Montana, meaning the roads can no longer be used for motorized travel. In some cases, the areas have been restored to a more natural condition.

The agency estimates that public land users created more than 6,000 miles of unauthorized roads, which are now closed to motorized use as well.

Road information for BLM land is limited. About 700 miles of roads are closed in the areas managed by field offices in Butte, Missoula, and the Upper Missouri Breaks National Monument. Roads in the Dillon area are closed if they are not included on the travel management map. Most BLM roads in eastern Montana remain open while the offices in that part of the state embark on travel management planning.

For the portion of the study examining landlocked parcels, information was gleaned from an analysis performed by Montana's Department of Fish, Wildlife and Parks in 2013 to assist in a survey of hunters and landowners and to evaluate access to public and private lands for hunting.

The analysis found that about 17 percent (1.4 million acres) of land managed by the BLM cannot be accessed by a legal road or waterway. As long as travel to an access point takes place on public land or on a public waterway, the parcel is considered accessible regardless of the distance to the access point.

The U.S. Forest Service has about 148,000 acres of inaccessible land, or about 1 percent of the agency's holdings.

Although the HJR 13 study is about federal access, the FWP analysis found that the most inaccessible acres are those managed by the state of Montana. Thirty percent of the state's holdings, 1.6 million acres, cannot be accessed.

More information about the HJR 13 study and findings is available on the [EQC topics web page](#). An [interactive map](#) showing U.S. Forest Service roads and land parcels is also available online.

## Sage Grouse

At its September meeting, the EQC compared aspects of Montana's sage grouse management plan to conservation measures proposed by the BLM for the lands it administers in Montana. BLM State Director Jamie Connell told the EQC how her agency could tweak its plans after Montana's strategy is fully implemented. She committed to increasing the surface disturbance cap used by the BLM to evaluate whether there is room for new development in priority sage grouse habitat.

Currently, the BLM uses a 3 percent surface disturbance cap for all human-caused disturbance, not including wildfire and agricultural conversion disturbances. The BLM's cap increases to 5 percent when wildfire and agricultural conversion activities are considered.

In contrast, Montana's disturbance cap is 5 percent across the board. Connell said the BLM would increase its cap to 5 percent for all activities when Montana's strategy is fully operational.

Part of getting Montana's strategy up and running includes establishing various technical analysis tools to evaluate the potential impacts of a proposed project on sage grouse and their habitat. This evaluation could include a process for calculating surface disturbance. The Montana Sage Grouse Oversight Team, comprising various state agency directors, two legislators, and a member of the Rangeland Resources Committee, is working on it. The team held its first meeting on Sept. 18. The second is scheduled for Nov. 17.

The EQC opted this interim to follow the progress of the oversight team and implementation of the sage grouse conservation strategy. In January, the EQC will receive a status update and more information about overall funding for sage grouse conservation efforts at a national level.

In an executive order issued on Sept. 9, the same day the EQC's September meeting began, Gov. Steve Bullock established a Jan. 1, 2016, deadline for full implementation of Montana's sage grouse conservation strategy.

## Program Evaluation

As part of its duty to oversee the work of the departments of Environmental Quality, Natural Resources and Conservation, and Fish, Wildlife and Parks, the EQC is evaluating specific programs within each agency. The evaluations include an overview of each program with relevant laws and rules, a fiscal overview, and an explanation of permits and enforcement, if applicable.

All completed program evaluations by the EQC are available on the [EQC topics web page](#). In January, the EQC will review evaluations for the FWP's hunting access program and nongame, threatened, and endangered species programs as well as DNRC's minerals management program.

## FWP

In September, the EQC reviewed the FWP's wildlife conflict management programs, which cover wildlife health management, human safety, urban wildlife, livestock depredation, and game damage.

The estimated, combined cost of wildlife conflict management was \$1.64 million in fiscal year 2015. The total cost is unknown because many FWP employees who work tangentially with or respond to wildlife conflicts (e.g., wardens, general biologists, and bureau chiefs) don't code the time they spend specifically to that effort.

A legislative performance audit raised many administrative issues with the game damage program earlier this year. The FWP discussed with the EQC rule changes the department is proposing to address the audit findings. Some members of the public expressed concern about the proposed rule changes. The EQC expects to meet by teleconference in November to

review the FWP's final rule proposal. The EQC could opt to object to the proposed rules, which would delay implementation of the rules by up to six months.

## DEQ

The Industrial and Energy Minerals Bureau at DEQ oversees coal and opencut mining programs. Montana's coal laws still reflect the regulations passed in 1973 and predate federal laws by four years.

Seven companies are permitted to mine coal over 70,000 acres. These companies have posted \$453 million in bonds. The coal program has a budget of about \$2.4 million a year, around half of which comes from the federal government by law as compensation for state permitting on federal lands. The program has about 16 full-time employees.

The opencut mining program handles mostly gravel pits. About 95 percent of the 2,000 active opencut permits are for gravel. The program's annual budget is \$1.1 million. The program has the equivalent of almost 13 full-time employees.

In 2014, the program granted 101 requests for permits or amendments. About half were issued in less than three months. Sixteen applications took more than six months.

## DNRC

Montana manages more than 5 million acres of surface land that the state obtained through the 1889 Enabling Act, which allowed Montana's statehood. Almost 4.8 million acres of that land is leased for farming or grazing as a way to raise money for educational trust beneficiaries. Last year, revenue from agriculture and grazing leases amounted to about \$29 million.

Under lease agreements for crop land, at least 25 percent of the proceeds must be remitted to the state. The top crops on leased land for 2014 were wheat (7.4 million bushels) and barley (1 million bushels).

Grazing leases are based on the carrying capacity of the land to sustain one "animal unit" — defined as one cow, one horse, five sheep, or five goats — for one month. This capacity is called an animal unit month, or AUM. To achieve full market value of the lease, the Land Board first sets a multiplying factor, then multiplies that factor by the average price per pound of beef in Montana for the previous year and, finally, multiplies that result by the AUM of the land.

There are about 8,700 agricultural or grazing leases on state land. About 1,000 of them are up for renewal each year following an inspection of the property. Leases are generally issued for 10 years but can be issued for five years. Five-year leases often specify certain conditions for management of the property.

State lands leased for timber, agriculture, or grazing are also open to recreational use. Most of the revenue for recreational use comes from a \$2 fee attached to a conservation license that allows the holder to hunt, fish, or trap on state land. Year-round use of state lands for such pursuits as hiking or bird watching generally costs \$10 per year per person.

## Next Meeting

The EQC will meet on Jan. 13-14 at the Capitol in Helena. For more information on the council's activities and upcoming meeting, visit the EQC's website or contact Joe Kolman, committee staff.

Council Website: [www.leg.mt.gov/eqc](http://www.leg.mt.gov/eqc)

Council Staff: (406) 444-3747 or [jkolman@mt.gov](mailto:jkolman@mt.gov)

## Legislative Council to Discuss Constituent Services Accounts, Other Topics

Tentative agenda items for the Legislative Council's Nov. 16 meeting include:

- legislative branch oversight of executive branch agencies;
- oversight of the legislative branch budget, including legislator and staff pay;
- House Bill 1 and House Bill 2 for legislative branch programs;
- oversight of Television Montana (TVMT);
- discussion of guidelines for legislator appointments; and
- discussion of Senate Bill 283 (2015), regarding legislative constituent services accounts, for the next interim.

Materials are being sent to the committee members and posted to the website as available.

## Next Meeting

The Legislative Council will meet on Nov. 16 in Room 102 of the Capitol in Helena from 9 a.m. to 5 p.m. For more information on the council's activities and upcoming meeting, visit the council's website or contact Susan Byorth Fox, council staff.

Council Website: [www.leg.mt.gov/legcouncil](http://www.leg.mt.gov/legcouncil)

Council Staff: [sfox@mt.gov](mailto:sfox@mt.gov) or 406 444 3066

## Finance Committee to Review Budget Status Report and Medicaid

At its meeting on Dec. 7-8, the Legislative Finance Committee will receive several reports on Medicaid expansion and review the Fiscal Year 2016 Budget Status Report, which will

include updates on revenues, expenditures, and the general fund balance.

## September Meeting

At its September meeting, Legislative Fiscal Division staff reported that the preliminary, unaudited FY 2015 ending general fund balance was \$455.1 million, which was \$90.2 million higher than anticipated by the 64th Legislature. The \$90.2 million consists of \$45.7 million in higher-than-expected revenue, \$35.6 million in lower-than-expected spending, and \$8.9 million in savings and adjustments.

Fiscal analyst Stephen Forrest reported that the FY 2015 ending fund balance for the fire suppression fund was \$38.7 million.

Fiscal analyst Quinn Holzer presented an update on the status of the Medicaid expansion authorized by Senate Bill 405, the HELP Act. Holzer reported that the expansion is not effective until specific waivers are approved by the Center for Medicare and Medicaid Services (CMS). An oversight committee has been established, and DPHHS published the waiver proposal for public comment before submitting the waiver application to CMS on Sept. 16. CMS is not required to approve this waiver on any specific timeline, but DPHHS has requested a response by Nov. 1. Additionally, DPHHS is working to finalize a contract for a third-party administrator.

Other presentations covered:

- income tax forecasting measures;
- the workload, budget challenges, and opportunities of the Child and Family Services Division in DPHHS;
- contract provisions and purchase options for the Crossroads Correctional Center, the private prison in Shelby. The committee did not request further details on purchasing options at this time.
- FY 2019 budgeting approaches for state information technology costs;
- the Medicaid Management Information System. The MMIS Subcommittee discussed the direction of the project and proposed providing a recommendation to the LFC at its December meeting.
- local government infrastructure;
- a potential study of the quality schools account;
- state and university employee health insurance pools. The LFC invited State of Montana Health Care and Benefits Division and University of Montana stakeholders to discuss current employee health plans and impending changes to those plans. The committee asked to be provided additional information at the December meeting on reference-based

pricing, the viability of clinics, and the future of public-private partnerships. The Montana University System and HCBD will also provide future updates on financial plans. The committee requested that the LFD provide a comparison of public and private health insurance plans in Montana, including costs, deductibles, and copays.

- the Department of Justice's plan to study the Montana Law Enforcement Academy, a study that relates to House Joint Resolution 8 and will continue to be monitored in future LFC meetings; and
- the 40th anniversary celebration for the LFC, which will follow the December LFC meeting.

The committee requested a future presentation on the child abuse court diversion pilot project established by House Bill 612.

After adjournment, several LFC members and staff visited the Montana Law Enforcement Academy.

## Next Meeting

The committee will meet Dec. 7-8 in Room 102 at the Capitol in Helena starting at 10 a.m. on Dec. 7. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Legislative Fiscal Analyst Amy Carlson.

Committee Web Site: [www.leg.mt.gov/lfc](http://www.leg.mt.gov/lfc)

Committee Staff: [acarlson@mt.gov](mailto:acarlson@mt.gov) or 406-444-298 8

## Sexual Assault Study Takes Center Stage at LJIC September Meeting

After taking a tour of the Crossroads Correctional Center in Shelby on Sept. 28, the Law and Justice Interim Committee returned to Helena for two full days of meetings on their one interim study and several other topics identified as of interest to the members.

Senate Joint Resolution 24 asked the LJIC to consider a broad list of topics related to sexual assault in Montana. The LJIC did just that, devoting nearly one full day to the study. Deb Matteucci, executive director of the Montana Board of Crime Control, started off the SJR 24 presentations by highlighting existing crime data that the board collects from local jurisdictions. She discussed the limitations of the data collection process, including that tribal and state law enforcement data are not included in the main crime database and that sexual assault crimes are typically underreported to law enforcement.

After a review of Montana's current sexual assault statutes by Assistant Attorney General Ole Olson and LJIC Staff At-

torney Julianne Burkhardt, the committee learned how those statutes were applied to an actual investigation and prosecution. Ravalli County Attorney Bill Fulbright highlighted the challenges that prosecutors, law enforcement officials, victims, and a community can face when he walked the committee through a study of a multicount rape case he recently prosecuted. Later, Tami Grewell, a Billings nurse who is trained to conduct medical forensic examinations of sexual assault victims, teamed with Dianne Linder from the Billings Clinic to discuss training requirements, the exam process, and challenges that victims and providers face.

Christina Powell from the Bozeman Help Center, Tina Chamberlain from the Board of Crime Control, and Robin Turner from the Montana Coalition Against Domestic and Sexual Violence formed a panel that outlined different methods of providing support services to victims of sexual assault crimes in Montana. They also discussed the funding available for these services, the needs of victims and the challenges they face, and the laws that protect victims' rights. Before ending their work for the first day, the LJIC members heard from Kelly Parsley, the state's rape prevention education coordinator and a Carroll College professor, and Assistant Attorney General Dan Guzynski about myths that can surround society's perceptions of sexual assault and how those perceptions can affect the reporting and prosecution of sexual assault crimes.

On Sept. 30, the LJIC learned about cross-jurisdictional challenges posed by sexual assault crimes that occur in Indian Country and on Montana's college and university campuses. Danna Jackson, an assistant U.S. attorney for the District of Montana, and Yvonne Laird, a tribal prosecutor and special assistant U.S. attorney for the Fort Belknap Indian Community, discussed the relevant federal laws that make crime prosecution in Indian Country difficult at times. They also discussed the steps their offices are taking to implement better communication and resource sharing to improve responses to sexual assault crimes. Next, Title IX coordinators and the chiefs of police from both Montana State University-Bozeman and the University of Montana-Missoula answered questions from LJIC members about recent efforts by the universities to address sexual assault on their campuses.

## Domestic Violence

Matthew Dale, the executive director of the Office of Victim Services at the Montana Department of Justice, presented an update on the work and findings of the Domestic Violence Fatality Review Commission. The commission meets biannually to identify gaps in and to coordinate multiagency efforts for the protection of those at risk of becoming victims of domestic violence. His presentation included data related to the reported homicides, such as ages and genders of the victims,

types of weapons used in the crimes, and ages and genders of the perpetrators. He highlighted several statewide trends and reviewed the commission's draft recommendations for future work and possible policy changes. He also covered the work of the Native American Fatality Review Team, which is starting to perform similar reviews for intimate partner deaths affecting Native American communities.

## Eyewitness Identification

The LJIC wants to learn more during the interim about best practices for eyewitness identification. Also known as photographic lineups, these tools can be used by law enforcement officers as part of a crime investigation. Glen Stinar from the Montana Law Enforcement Academy kicked off the panel presentations by reviewing the MLEA's model policy on lineups and how the policy was developed. Chief William Brooks from the Norwood (Massachusetts) Police Department reviewed a recent report by the National Academy of Sciences on best practices for performing lineups and used two videos to illustrate the difficulties posed to law enforcement and witnesses when trying to identify crime suspects using a lineup. Jerry Williams of the Montana Police Protective Association discussed the reactions and needs of the local law enforcement officers and stressed that training on best practices is critical for the officers. Michelle Feldman, a state policy advocate for the nationwide Innocence Project, discussed the difficulties in cross-racial identification and described the resources her organization offers state policymakers.

During a later work session, the LJIC received word that the MLEA is going to work with the Public Safety Officer Standards and Training Council and the Innocence Project to bring Chief Brooks back to the state for officer training sessions and to also conduct surveys of local agencies to determine compliance with the MLEA model policy. MLEA and POST Council staff will update committee members about the trainings and survey at a spring 2016 LJIC meeting.

## Chronic Public Intoxication

Wrapping up the busy meeting days, a panel of public leaders from Billings and Missoula presented information about the challenges their communities and law enforcement officials face in handling individuals who are chronically intoxicated in public. Many of these individuals also face mental health issues and homelessness. The discussion revolved around efforts these communities have made or would like to make to address this problem and included discussion of a failed bill from the 2015 legislative session (Senate Bill 360) that would have allowed local governments to adopt and enforce an ordinance that prohibits public intoxication. The LJIC didn't act on the topic or request additional information to be presented at a later meeting.

## Next Meeting

The LJIC will meet on Nov. 30 at the Capitol in Helena at a time to be determined. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Rachel Weiss, committee staff.

Committee Website: [www.leg.mt.gov/ljic](http://www.leg.mt.gov/ljic)

Committee Staff: [rweiss@mt.gov](mailto:rweiss@mt.gov) or 406-444-5367

## Revenue and Transportation Committee Adopts Work Plan

At its September meeting, the Revenue and Transportation Interim Committee adopted a work plan and meeting schedule. The work plan prioritizes the committee's nine studies, agency-monitoring priorities, and revenue-estimating topics of interest. The committee also adopted the following meeting schedule for the 2015-2016 interim:

- Nov. 30-Dec. 2, 2015;
- March 3-4, 2016;
- June 9-10, 2016;
- Sept. 7-8, 2016; and
- Nov. 18, 2016.

## Committee Studies

Much of the committee's meeting was devoted to gathering background information for the committee's chosen study topics, including the tax treatment of intangible property, the taxation of international corporations, the status of the highway state special revenue account, nonprofit reporting of community benefits, the adequacy of local government revenue-generating capacity, property taxable value neutrality, and the Elderly Homeowner/Renter Credit. Agenda items related to the study of tax increment financing were canceled a week before the meeting but have been rescheduled for the November/December meeting. The study on tax liens and tax deeds will be taken up later in the interim after a working group of county officials concludes its meetings on the topic.

## Revenue Estimating and Monitoring

The committee also fulfilled its revenue-monitoring duties by receiving a fiscal year 2015 revenue report from the Legislative Fiscal Division and a presentation from LFD staff on improving individual income tax revenue projections.

## Agency Monitoring

The committee also received presentations from the agencies for which the committee has statutory agency-monitoring duties. The Montana Tax Appeal Board provided an update on

property tax appeals by county and a summary of the board's cases. Department of Transportation Director Mike Tooley updated the committee on the status of the highway state special revenue account and developments related to federal highway funding. Department of Revenue Director Mike Kadas and other department officials provided an update on property reappraisal, informal valuation appeals, and litigation involving the department.

The committee discussed how to approach its agency-monitoring duties, including receiving agency updates and required reports. The committee's preference, which is reflected in the work plan, is to receive reports from agencies in advance of each meeting to save time. Only two required reports will be presented during committee meetings: MDT's report on shared-use trails and DOR's report on tax rates required for property taxable value neutrality. The other required reports will be provided to members before the scheduled meetings, and time will be allotted at the meetings for any related committee questions and public comment.

## Next Meeting

The committee will meet on Nov. 30-Dec. 2 at the Capitol in Helena. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Megan Moore, committee staff.

Committee Website: [www.leg.mt.gov/rtic](http://www.leg.mt.gov/rtic)

Committee Staff: [memooore@mt.gov](mailto:memooore@mt.gov) or 406-444-4496

## School Funding Interim Commission Elects Officers and Charts Course

The School Funding Interim Commission established under Senate Bill 128 (2015) met for the first time on Sept. 23 at the Capitol. All 16 commissioners attended, including 12 legislators and four public members. The commission elected Sen. Tom Facey (D-Missoula) as presiding officer and Sen. Elsie Arntzen (R-Billings) as vice presiding officer.

The commission's work is often referred to as "the decennial study" because it fulfills a statutory requirement that Montana's K-12 school funding formula be reviewed at least every 10 years. Commission members are tasked with reassessing the needs and costs related to the basic system of free quality public elementary and secondary schools and, if necessary, recommending changes to the state's funding formula to the next Legislature.

The commission began the Sept. 23 meeting by inviting input from stakeholders, including representatives from the Office of Public Instruction, the Board of Public Education, the education community, and the general public. Some public commenters mentioned the lack of funding for special

education students beyond age 18 as a concern; others asked the commission to look at increasing funding for gifted and talented education. Representatives from the education community agreed strongly on the need to examine (1) adding an inflationary factor to special education funding, (2) resolving ongoing difficulties in recruiting and retaining quality educators, especially in smaller school districts, and (3) developing a reliable funding mechanism for school facilities (following the 2015 Legislature's action in not funding the Quality Schools Grant Program and concerns about the revenue available for facility reimbursements, also known as debt service guaranteed tax base, or GTB).

The commission spent much of this first meeting refreshing and adding to members' understanding of Montana school funding. After a high-level overview, commissioners rolled up their sleeves and took out laptops for a hands-on district budgeting exercise facilitated by school finance specialists from OPI. Each commissioner received data about a specific school district, including enrollment, taxable valuation, and nonlevy revenue, and then used online budgeting spreadsheets to understand how the numerous components of Montana's school funding formula come together in establishing a district general fund budget. A planned presentation on the various other district-level funds (e.g., transportation, retirement, building reserve, and flexibility funds) was postponed until the next commission meeting.

Following this extended work session, commissioners learned about several other resources available to assist them in their study. The Montana State Library showed commissioners how to use a GIS map of Montana school districts; representatives from OPI demonstrated the GEMS (Growth and Enhancement of Montana Students) statewide longitudinal education data system; and Mike Griffith from the Education Commission of the States visited with members about the expertise and support he and ECS can provide.

Commissioners then discussed the topics they felt would be most important to examine as part of the interim study. The commission ultimately decided to meet again for three days in January and focus attention on four primary areas:

- recruitment and retention of qualified teachers, administrators, and staff;
- funding for school facilities;
- special education; and
- school district structures and boundaries.

The commission instructed staff to conduct an online poll of members regarding their ranking of several other topics and to work with Sen. Tom Facey (D-Missoula) and Sen. Elsie Arntzen (R-Billings) in designing an agenda for January that reflects these priorities.

## Next Meeting

The commission will meet on Jan. 11-13 at the Capitol in Helena. For more information on the commission's activities and upcoming meeting, visit the commission's website or contact Pad McCracken, commission staff.

Commission Website: [www.leg.mt.gov/sfc](http://www.leg.mt.gov/sfc)

Commission Staff: [padmccracken@mt.gov](mailto:padmccracken@mt.gov) or 406-444-3595

## State Administration Committee to Begin Examination of Big Data and Privacy

At its Nov. 17 meeting, the State Administration and Veterans' Affairs Interim Committee will begin its examination of laws on the collection, security, and distribution of personal data as well as consider whether to renew its objection to, or take any other actions regarding, campaign finance rules proposed by the commissioner of political practices.

## HJR 21 — Study on Personal Information

Most of the Nov. 17 agenda will feature presentations related to SAVA's House Joint Resolution 21 (2015) study on personal information. Legislative staff will review federal and state laws. Guest speakers will cover:

- the role of federal agencies and the proposed federal Consumer Privacy Bill of Rights;
- retailers and the consumer data industry;
- personal health information laws and compliance issues;
- personal financial data collected by financial institutions and the roles of the State Auditor's Office and the Montana Department of Justice's Office of Consumer Protection; and
- the privacy and security policies and practices of the Montana State Information Technology Division and state agencies.

## Campaign Practice Rules

The meeting will also include an overview of public comment received on the COPP's proposed revisions to Montana's campaign finance rules pursuant to laws passed during the 2015 legislative session, a summary of whether the COPP revised any of its proposed rules in response to concerns raised, and a discussion of whether SAVA wishes to renew its Aug. 19 objection and further delay adoption of the rules or exercise any other powers granted to administrative rule review committees under the Montana Administrative Procedures Act.

## Study and Work Plans

The meeting will wrap up with discussion of and potential action on a proposed HJR 21 personal information study

plan and a proposed work plan and meeting schedule for the remainder of the interim.

## Next Meeting

The committee will meet at 9 a.m. on Nov. 17 in Room 137 of the Capitol in Helena. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Sheri Scurr, committee staff.

Committee Website: [www.leg.mt.gov/sava](http://www.leg.mt.gov/sava)

Committee Staff: [sscurr@mt.gov](mailto:sscurr@mt.gov) or (406) 444-3596

## Tax Agreements and Indian Child Welfare Headline State-Tribal Relations Committee Meeting

At its meeting in Helena on Oct. 21-22, the State-Tribal Relations Committee hosted in-depth panel discussions on state-tribal tax agreements and state implementation of the Indian Child Welfare Act.

### Tax Agreements

Representatives of the departments of Revenue and Transportation, the Confederated Salish and Kootenai Tribes, and the Blackfeet and Crow nations reviewed the history and current status of gas, tobacco, alcohol, and natural resource state-tribal tax agreements. Ryan Rusche, attorney for the CSKT, said the agreements came about after a string of litigation in the 1980s as an alternative way to resolve legal controversy and avoid double taxation on reservations. The state now collects tobacco, alcohol, and gasoline taxes on many reservations and remits a portion to those tribes based on a per capita formula and tribal enrollment.

### Indian Child Welfare

Louise Reyes, who works for the federal Bureau of Indian Affairs in Billings, provided an overview of the ICWA and its history. Congress passed the ICWA in 1978 to address concerns related to the breakup of Indian families resulting from the high rate of placing Indian children in non-Indian foster and adoptive homes.

The ICWA requires the state to make "active efforts" when providing remedial and rehabilitative services to a family prior to the removal of an Indian child from his or her parent or Indian custodian. If an Indian child is removed from a parent or Indian custodian, the state must make "an intensive effort" to reunify them. Discussion participants included representatives from the Montana Department of Justice, the Montana Department of Public Health and Human Services, the CSKT, and a member of the Northern Cheyenne Tribe who serves as a qualified expert witness (QEWP) in ICWA cases.

The testimony of a QEWP is required to make a foster care placement for an Indian child or to terminate parental rights. Recruiting for QEWP was identified in a 2002 legislative performance audit as a challenge for state compliance with ICWA. The committee heard that although QEWP recruitment has improved, it continues to be challenging. Finding tribally approved foster homes also remains difficult.

## Cultural Patrimony and Sacred Objects and Sites

Also at the Oct. 21-22 meeting, the committee kicked off its study of protections for cultural patrimony and sacred objects and sites. The committee received summaries of existing state, federal, and tribal laws and learned how federal copyright law might provide protections, although tribal representatives in attendance disagreed on whether further examination of copyright law is a good option to pursue.

### Suicide Prevention

The committee is also monitoring implementation by the DPHHS of \$250,000 in Indian youth suicide prevention funding. The agency has not spent any of the funding to date but did consult with tribal representatives on Oct. 20 in Helena to gather ideas.

Jay Eagleman of the Chippewa Cree Suicide Prevention Task Force told the committee about the group's efforts through its Sweet Grass workshops to stem the suicide rate on the Rocky Boy Reservation. The workshops promote native ecological wellness and reconnecting with traditional ceremonies.

### Other Topics

The committee also received reports on the Native American Collateral Support Program, the implementation and funding of language immersion programs in certain Montana schools, and labor statistics for Montana's reservations.

### Next Meeting

The committee will meet by conference call at 10 a.m. on Nov. 4 in Room 102 of the Capitol in Helena to decide whether to send letters of support to the Montana congressional delegation regarding S. 1419, the Native Language Immersion Student Achievement Act sponsored by U.S. Sen. Jon Tester. Members of the public who wish to provide comment may do so in person at the meeting or in writing by e-mailing committee staff member Hope Stockwell.

For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Hope Stockwell.

Committee Website: [www.leg.mt.gov/tribal](http://www.leg.mt.gov/tribal)

Committee Staff: [hstockwell@mt.gov](mailto:hstockwell@mt.gov) or 406-444-9280

# The Back Page

## Can You “Name That Audit”? An Overview of the Legislative Audit Division’s Work

by Sarah A. Carlson, Senior Performance Auditor  
Montana Legislative Audit Division

### Everyday Auditing

Incredibly, there is a belief in some quarters that auditing is too arcane to understand and has very little to do with real life! You can almost hear the collective “au contraire” response coming from the Legislative Audit Division, located in the Capitol’s west end on the first floor. While some details of LAD’s processes can be daunting, in its most basic sense auditing is something everyone engages in almost every day.

After finishing a project, do you step back and evaluate your work? Before you submit your Smith River floating permit application, do you double-check that you have prepared the required form and included all mandatory information? This is a compliance audit of sorts. Or, have you had a “Eureka!” moment when you determined that keeping your schedule with colored pencils on a paper calendar may not be the most efficient and effective system available? Your realization that you can use your smartphone to organize your appointments instead, ultimately saving time and perhaps money, was based on a performance audit of your original hard-copy, colored pencil method. If you then research various calendar applications, including testing to determine whether the application operates as quickly and thoroughly as promised all while keeping your data safe, you will have engaged in work resembling an information system audit.<sup>1</sup>

The audit work LAD does is similar to these examples but with some big differences. LAD audits are of the departments and programs of state government, including the university system, and follow very specific standards developed by such organizations as the American Institute of Certified Public Accountants and the United States Government Accountability Office.

### Origins

Have you ever thought that there should be specialists routinely reviewing the financial activities of state government,

or experts checking to see whether state programs are running efficiently and effectively, or tech-savvy specialists looking into the setup of the myriad of state computer systems to see whether the data produced are valid and consistent as well as protected from breaches? LAD auditors are those specialists. The information generated in audit reports provides vital information to management, public stakeholders, and legislators when assessing the government’s stewardship of public resources and compliance with the law.

Article V, sec. 10(4), of the Montana Constitution mandates a legislative post-audit function. The Legislative Audit Act (Title 5, ch. 13, MCA) establishes the Legislative Audit Committee and the Legislative Audit Division. Managed by the Legislative Auditor, who is appointed by the committee, the division provides the Legislature, its committees, and its members with factual, time-relevant information. The act intends that each agency of state government be audited to furnish the Legislature with factual information vital to the discharge of its legislative duties. The Legislative Auditor selects and prioritizes agencies and programs for audits while considering each agency’s or program’s financial, operational, and technological risks associated with meeting its intended purpose, goals, objectives, and legal mandates.

The Legislative Audit Committee is a bicameral and bipartisan administrative committee consisting of six members of the Senate and six members of the House of Representatives. The Legislative Audit Committee appoints, consults with, and advises the Legislative Auditor. The committee also reviews the audit reports submitted by the Legislative Auditor, releases the audit reports to the public, and serves as the conduit between the Legislative Auditor and the Legislature.

### Financial-Compliance Audits

Financial-compliance audits are conducted by LAD to determine whether an agency’s financial operations are properly conducted, its financial reports are presented fairly, and the

<sup>1</sup> David R. Hancock and Martin Ives, *Government Performance Audit in Action*, 2nd ed. (Ives and Hancock, 2004), p 1.

agency has complied with all applicable laws and regulations. State law requires that LAD conduct both a financial audit and a financial-compliance audit of each state agency at least every two years. Consequently, LAD usually issues more than 30 financial-compliance audit reports in a biennium.

## Single Audits

LAD also issues a statewide single-audit report by the end of March in even-numbered years. The single-audit work, which is required for state agencies to receive federal funding, includes reports on an agency's compliance with the requirements of select federal programs.

## Performance Audits

In the early years of auditing, work focused on financial activities only. More recently, however, audit work has also assessed broader aspects of accountability, such as efficiency and effectiveness, leading to auditing the performance of programs and organizations. LAD's performance audits review and analyze state programs to determine whether the programs are achieving the intended results, are being conducted efficiently, and are in compliance with related statutes and regulations. Performance audits result in recommendations on how to increase the effectiveness or efficiency of programs.

## Information System Audits

Over time, as computer systems have become more important in state government operations, a process for auditing information systems has been implemented. Information system audits examine both general and business process controls associated with an information system. These audits determine how well the controls ensure that the information provided by the system or application is complete, accurate, valid, confidential, and readily available.

## Peer Reviews

Complying with auditing standards can yield some challenging language. For example, one auditing standard required by the Government Accountability Office is a peer review of LAD's operations every three years. Staff from audit organizations around the United States come to LAD to review the research and documentation related to various audits, look at the processes LAD uses to ensure quality, and interview staff about how they complete their work. Most recently, a review team traveled to Montana in June 2014 to evaluate the division. When the review team later contacted LAD to describe what they found, they wrote:

We conclude that the Montana Legislative Audit Division system of quality control has been suitably designed and complied with to provide the audit organization with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects.

It's quite a mouthful, but not very descriptive language for the layperson. This exacting language is necessary, however, because auditing standards are designed to ensure that auditors from around the country are looking for, and describing, the same thing. The standards also use the same language to describe what a review team should state when the team finds no deficiencies or other issues. The 2014 review team included individuals from state audit organizations in Connecticut, Colorado, Oklahoma, Indiana, and Tennessee as well as from the U.S. Department of Health and Human Services. The next peer review of LAD will occur in 2017.

## Hotline

LAD maintains a toll-free telephone number (1-800-222-4446) and an online form for Montana residents to report fraud, waste, and abuse in state government. Any information received concerning a government entity other than one from state government may also be referred by the auditor to an appropriate federal, state, or local government agency. LAD currently receives about 100 hotline calls in a biennium regarding alleged fraud, waste, and abuse in state government.

Consider the range of auditing activity in everyday life. It's everywhere. Just as you bring it into your workshop or garden while you assess progress on new projects, LAD provides unique information related to government operations based on its supported audit work of those operations. So if you come across baffling "audit language," rather than dismissing it as undecipherable, consider finding out the reasoning behind it. You might be surprised to hear yourself saying, "Well, that makes sense now."

For additional information about the Legislative Audit Committee and Legislative Audit Division, copies of previous audits, and information about work in progress at LAD, visit the division's web page at <http://leg.mt.gov/audit> or call 406-444-3122.